

Attorney Docket No.: 02CON377P
Serial No.: 09/627,375

REMARKS

This Amendment and Response is in response to the Advisory Action, dated February 23, 2004, where the Examiner has rejected claims 1-11 and 28-37. By the present amendment, applicant has cancelled claims 4-6, 8 and 31-34, and has amended claims 1, 3, 9, 28, 30 and 35. After the present response, claims 1-3, 7, 9-11, 28-30 and 35-37 are pending in the present application. Reconsideration and allowance of pending claims 1-3, 7, 9-11, 28-30 and 35-37 in view of the following remarks are respectfully requested.

A. Rejection of Claims 1-11 and 28-37 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-11 and 29-37 under 35 U.S.C. § 103(a), as being unpatentable. Applicant respectfully disagrees; however, in order to expedite the prosecution of the present application, applicant has amended claim 1. Applicant respectfully submits that claim 1, as amended, should be allowed over the cited references. For example, applicant respectfully submits that the combination of Smolik, Bender and Tiedemann, assuming, arguendo, that they can be combined, fails to disclose, teach or suggest "wherein if the network cannot accommodate a service demand by one of the plurality of users, the target average data rates associated with the standard class and the economy class are reduced to accommodate the service demand, and wherein the service demand is determined based on at the desired service class of the one user and the subject matter of the signals." It is respectfully submitted that none of the cited references determines the service demand based on both the service class (i.e., a premium class, a standard class and an economy class) and the subject matter of the signals, and if the network cannot accommodate such service demand, reduce the target average data rates associated with the standard class and the economy class.

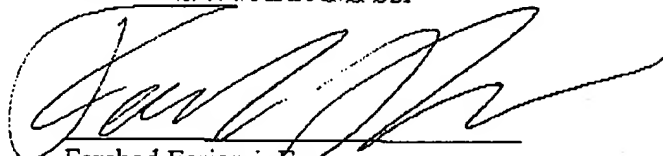
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Accordingly, it is respectfully submitted that claim 1 and its dependent claims 2-3, 7 and 9-11 should allowed. Further, claim 28 has been amended to include limitations similar to those of claim 1. Therefore, claim 28 and its dependent claims 29-30 and 35-37 should also be allowed.

B. Conclusion

For all the foregoing reasons, an early allowance of claims 1-3, 7, 9-11, 28-30 and 35-37 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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